ESTTA Tracking number:

ESTTA548761 07/16/2013

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The St. Joe Company
Granted to Date of previous extension	09/18/2013
Address	133 S. Watersound Parkway WaterSound, FL 32413 UNITED STATES

Attorney	Elizabeth G. Borland
information	Smith, Gambrell & Russell, LLP
	1230 Peachtree Street, N.E. Suite 3100-Promeande
	Atlanta, GA 30309
	UNITED STATES
	egborland@sgrlaw.com, krowe@sgrlaw.com, mbedsole@sgrlaw.com,
	khennessey@sgrlaw.com Phone:404-815-3645

Applicant Information

Application No	85809544	Publication date	05/21/2013
Opposition Filing Date	07/16/2013	Opposition Period Ends	09/18/2013
Applicant	Ray Marks Co. LLC 900 Broadway, Suite 1001 New York, NY 10003 UNITED STATES		

Goods/Services Affected by Opposition

Class 041.

All goods and services in the class are opposed, namely: Entertainment services in the nature of television programs, namely, continuing television programs related to food

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)	
False suggestion of a connection	Trademark Act section 2(a)	
Priority and likelihood of confusion	Trademark Act section 2(d)	

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2633103	Application Date	03/28/2001
Registration Date	10/08/2002	Foreign Priority Date	NONE

Word Mark	FISH OUT OF WATER
Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 2002/03/01 First Use In Commerce: 2002/03/01 Restaurant services

Attachments	St. Joe v. Marks Not. of OPP.pdf(63300 bytes)
	St. Joe v. Marks Exhibts A-F to Not of OPP.pdf(1309834 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Elizabeth G. Borland/
Name	Elizabeth G. Borland
Date	07/16/2013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85/809,544 of FISH OUT OF WATER Published: May 21, 2013

The St. Joe Company,)
Opposer,	
V.) Opposition No
)
Ray Marks Co. LLC,)
Applicant)

Commissioner for Trademarks **Box TTAB FEE**P.O. Box 1451
Alexandria, Virginia 22313-1451

NOTICE OF OPPOSITION

Opposer The St. Joe Company ("Opposer") is a corporation organized and existing under the laws of the State of Florida, with a principal place of business at 133 S. WaterSound Parkway, WaterSound, Florida 32413. Opposer believes that it will be damaged by registration of the mark FISH OUT OF WATER, which is the subject matter of Application Serial No. 85/809,544, filed by Applicant Ray Marks Co. LLC. ("Applicant"), a limited liability company organized and existing under the laws of the State of New York, with a principal place of

business at 900 Broadway, Suite 1001, New York, NY 10003, and hereby opposes registration of same.

The grounds for opposition are as follows:

- 1. Opposer is the owner of the mark FISH OUT OF WATER for restaurant services.
- 2. Opposer is the owner of U.S. Registration No. 2,633,103 of the mark FISH OUT OF WATER for restaurant services.
- 3. U.S. Registration No. 2,633,103 is valid, and Opposer's use of the FISH OUT OF WATER mark that is the subject matter of Registration No. 2,663,103 has been continuous, and the mark has not been abandoned.
- 4. A current printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of Opposer's Registration No. 2,633,103 of its FISH OUT OF WATER mark is attached hereto as Exhibit A and is made part of the record.
- 5. Continuously and substantially exclusively since at least as early as March 2002, Opposer has been using the FISH OUT OF WATER mark for restaurant services, and has not abandoned such mark.
- 6. Opposer's FISH OUT OF WATER restaurant is located at Opposer's award-winning WATERCOLOR resort community in Santa Rosa Beach, Florida. A copy of a print-out from Opposer's watercolorresort.com website dated July 9, 2013, that promotes Opposer's FISH OUT OF WATER restaurant is attached as Exhibit B.
- 7. Opposer's FISH OUT OF WATER restaurant is advertised on many national websites, including urbanspoon.com, opentable.com, and tripadvisor.com. Copies of print-outs dated July 8, 2013, showing such advertisements are attached as Exhibit C.

- 8. Opposer's FISH OUT OF WATER restaurant is also listed in national travel publications, such as Fodor's and Frommer's travel guides. Copies of print-outs dated July 9, 2013, from the frommers.com and fodors.com websites showing listings for Opposer's FISH OUT OF WATER restaurant are attached as Exhibit D.
- 9. In 2012, Opposer's FISH OUT OF WATER restaurant was awarded the "Golden Spoon Award" by Florida Trend Magazine. Opposer's FISH OUT OF WATER restaurant has also received a Four Diamond rating from AAA for each year from 2007 to 2012. A copy of a print-out from the watercolorresort.com website dated July 8, 2013, listing these awards and other awards to the FISH OUT OF WATER restaurant and the WATERCOLOR resort community is attached as Exhibit E.
- 10. Opposer's FISH OUT OF WATER mark is symbolic of extensive goodwill and consumer recognition built up by Opposer and its predecessors-in-interest through substantial amounts of time and effort in advertising and promotion.
- 11. Notwithstanding Opposer's rights in and to its FISH OUT OF WATER mark, on December 21, 2012, Applicant filed an application to register the mark FISH OUT OF WATER for entertainment services in the nature of television programs, namely, continuing television programs related to food.
- 12. Applicant's application to register the mark FISH OUT OF WATER was assigned Serial No. 85/809,544, and the application was published for opposition on May 21, 2013.
- 13. A current printout of information from the electronic database records of the United States Patent and Trademark Office showing the current status and title of Applicant's application for the FISH OUT OF WATER mark is attached as Exhibit F.

- 14. Upon information and belief, Applicant is affiliated with celebrity chef Rachael Ray, who hosts television programs relating to food on the Food Network.
- 15. The mark FISH OUT OF WATER, when used in connection with entertainment services in the nature of television programs, namely, continuing television programs related to food, is confusingly similar to Opposer's FISH OUT OF WATER mark, as set forth above and protected by Opposer's above-identified registration.
- 16. Customers who watch Applicant's FISH OUT OF WATER continuing television programs related to food are likely to be confused, mistaken or deceived as to the source of such programs and as to whether there is some connection or affiliation between Applicant's FISH OUT OF WATER television programs related to food and Opposer's FISH OUT OF WATER restaurant services.
- 17. Applicant's mark, when used in association with the services identified in Application Serial No. 85/809,544, is likely to cause confusion, mistake or deception when compared to Opposer's FISH OUT OF WATER mark.
- 18. Applicant's FISH OUT OF WATER mark and Opposer's FISH OUT OF WATER mark are identical and have the same connotation and commercial impression.
- 19. Applicant's FISH OUT OF WATER mark and Opposer's FISH OUT OF WATER mark are identical in sound and appearance such that when used on related goods and services, there is a likelihood of confusion, mistake or deception.
- 20. Applicant's FISH OUT OF WATER mark for television programs related to food, on the one hand, and Opposer's FISH OUT OF WATER mark for restaurant services, on the other, are closely related so that there is a likelihood of confusion, mistake or deception when

Applicant's FISH OUT OF WATER mark and Opposer's FISH OUT OF WATER mark are both used for such services.

- 21. Applicant and Opposer use their respective marks in the same or similar fields of use, thereby exacerbating the likelihood of confusion regarding the marks and the likelihood of confusion as to sponsorship or affiliation.
- 22. Applicant and Opposer market their services under their respective marks to the same types of customers.
- 23. If Applicant is permitted to use and register the mark FISH OUT OF WATER for entertainment services in the nature of television programs, namely, continuing television programs related to food, confusion in the trade resulting in damage and injury to Opposer will be caused and will result by reason of the confusing similarity between Applicant's FISH OUT OF WATER mark and Opposer's FISH OUT OF WATER mark.
- 24. Persons familiar with Opposer's FISH OUT OF WATER mark and the restaurant services marketed and rendered under such mark are likely to confuse Applicant's FISH OUT OF WATER entertainment services in the nature of television programs, namely, continuing television programs related to food as services promoted, offered, sold or sponsored by Opposer, and such confusion will cause harm to Opposer.
- 25. In addition to the harm identified in the preceding paragraphs, any defect, objection or fault found with Applicant's entertainment services in the nature of television programs, namely, continuing television programs related to food, or any unfavorable publicity experienced by any of the participants in Applicant's television programs, including, but not limited to Rachael Ray, would reflect badly upon and significantly injure the reputation which Opposer has established for its FISH OUT OF WATER restaurant services.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's FISH OUT OF WATER mark, and prays that its opposition to Application Serial No. 85/809,544 be sustained.

This 16th day of July, 2013.

Respectfully submitted,

SMITH, GAMBRELL & RUSSELL, LLP

/s Elizabeth G. Borland Elizabeth G. Borland Promenade, Suite 3100 1230 Peachtree St., N.E. Atlanta, GA 30309 Phone: (404) 815-3645

Fax: (404) 685-6945

Email: egborland@sgrlaw.com

Attorney for Opposer The St. Joe Company

CERTIFICATE OF SERVICE

I, Elizabeth G. Borland, counsel for The St. Joe Company, do hereby certify that the **NOTICE OF OPPOSITION** was served upon Applicant by placing a copy of same in the U.S. mail, postage prepaid, addressed as follows:

Ray Marks Co. LLC 900 Broadway Suite 1001 New York, NY 10003

Robin E. Silverman, Esq. Golenbock Eiseman Assor Bell & Peskoe 437 Madison Ave. Fl 35 New York, NY 10022-7020

A courtesy copy was also sent by email.

This 16th day of July, 2013.

/s Elizabeth G. Borland Elizabeth G. Borland





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Typed Drawing

Word Mark FISH OUT OF WATER

Goods and Services IC 042. US 100 101. G & S: Restaurant services. FIRST USE: 20020301. FIRST USE IN COMMERCE:

20020301

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76231769
Filing Date March 28, 2001

Current Basis 1A Original Filing Basis 1B

Published for

Opposition September 25, 2001

Registration Number 2633103 Registration Date 2633103

Owner (REGISTRANT) St. Joe Company, The CORPORATION FLORIDA 133 S. WaterSound Parkway

WaterSound FLORIDA 32413

Attorney of Record Katharine F. Rowe
Type of Mark SERVICE MARK
Register PRINCIPAL

Register PRINCIPAL

Affidavit Text SECT 15, SECT 8 (6-YR), SECTION 8(10-YR) 20120122.

Renewal 1ST RENEWAL 20120122

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Mark: FISH OUT OF WATER

FISH OUT OF WATER

Application Filing Date: Mar. 28, 2001 US Serial Number: 76231769 Registration Date: Oct. 08, 2002 US Registration Number: 2633103

> Register: Principal Mark Type: Service Mark

> > Status: The registration has been renewed.

Status Date: Jan. 22, 2012

Notice of Allowance Date: Dec. 18, 2001 Publication Date: Sep. 25, 2001

Mark Information

Mark Literal Elements: FISH OUT OF WATER

Standard Character Claim: No

Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

· Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of Asterisks ".." identify additional (new) wording in the goods/services.

For: Restaurant services

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE Basis: 1(a)

Use in Commerce: Mar. 01, 2002 First Use: Mar. 01, 2002

Basis Information (Case Level)

Amended Use: No Currently Use: Yes Filed Use: No Filed ITU: Yes Currently ITU: No Amended ITU: No Amended 44D: No Currently 44D: No Filed 44D: No Amended 44E: No Currently 44E: No Filed 44E: No

Filed 66A: No Currently 66A: No Currently No Basis: No Filed No Basis: No

Current Owner(s) Information

Owner Name: St. Joe Company, The Owner Address: 133 S. WaterSound Parkway

WaterSound, FLORIDA 32413 UNITED STATES

State or Country Where FLORIDA Legal Entity Type: CORPORATION

Organized:

Attorney/Correspondence Information

Attorney of Record

Docket Number: 4018433-3069

Attorney Email Yes Attorney Primary Email krowe@sgrlaw.com Authorized:

Address:

Correspondent

Correspondent Katharine F. Rowe

Attorney Name: Katharine F. Rowe

Name/Address: SMITH, GAMBRELL & RUSSELL, LLP

50 N. Laura Street

Suite 2600

JACKSONVILLE, FLORIDA 32202 UNITED STATES

Phone: 904-598-6112

Fax: 904-598-6212

Correspondent e-mail: krowe@sgrlaw.com

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 23, 2012	NOTICE OF ACCEPTANCE OF SEC. 8 & 9 - E-MAILED	
Jan. 22, 2012	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	70132
Jan. 22, 2012	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	70132
Jan. 20, 2012	TEAS SECTION 8 & 9 RECEIVED	
May 04, 2008	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	70132
Mar. 21, 2008	CASE FILE IN TICRS	
Nov. 21, 2007	ASSIGNED TO PARALEGAL	70132
Nov. 19, 2007	TEAS SECTION 8 & 15 RECEIVED	
Oct. 08, 2002	REGISTERED-PRINCIPAL REGISTER	
Jul. 01, 2002	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jun. 14, 2002	STATEMENT OF USE PROCESSING COMPLETE	
May 31, 2002	USE AMENDMENT FILED	
Jun. 14, 2002	EXTENSION 1 GRANTED	
May 31, 2002	EXTENSION 1 FILED	
Dec. 18, 2001	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Sep. 25, 2001	PUBLISHED FOR OPPOSITION	
Sep. 05, 2001	NOTICE OF PUBLICATION	
Jul. 16, 2001	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 16, 2001	ASSIGNED TO EXAMINER	74288

Maintenance Filings or Post Registration Information

Affidavit of Continued Section 8 - Accepted Use:

Affidavit of Section 15 - Accepted Incontestability:

Renewal Date: Oct. 08, 2012

TM Staff and Location Information

TM Staff Information - None File Location

Current Location: Not Found Date in Location: Jan. 22, 2012



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COAST/ACCOMMODATIONS.ASP)
VIEW DETAILS COLOR INN (/FLORIDA-GULF-

Located of the Total On the Total Coast, Fish Out Of Water's ង់សំនាំថា Minhing Entire List New York With an ULF-amazing ហិមិស្សិក វាក់ ខំលាក់ វិកាស្ត្រ NTALS.ASP) EXCLUSIVE GUEST AMENITIES (/FLORIDA-GULF-

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PACKAGES &

FISH OUT OF WATER (IFLORIDA-GULF-COAST/RESTAURANT.ASP#DITF ER CATHEROPSIDA (IFLORIDA-GULF-COAST/GATHERING-SPOT-SUSHI-BAR.ASP#BN)
BEACHCLUB GRILLE (IFLORIDA-GULF-COAST/BEACH-CLUB-GRILLE ASP#BN) RITA BAR (IFLORIDA-GULF-COAST/RITA-BAR.ASP#BN)
IN ROOM DINING (IFLORIDA-GULF-COAST/IN-ROOM-DINING.ASP#BN) AMEETY THE CHEFT YELORIDA-GULF-COAST/RESTAURANT-CHEFS.ASP#BN)

PHOTO GALLERY (/UPLOADS/FISH-OUT-OF-WATER-WATERCOLDRAPS) AGES-SPECIAL-

Gulf Front Fine Dining

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Gourmet, Riegkfast VELORIDA-GULF-



Lounge, Bar and Sunset Deck

Coastal dining at Fish Out of Water puts the Gulf's finest seafood center stage on its menu and served

al fresco on the Sunset Deck, inside in the dining room or for a special treat in the wine room. Fish Out

of Water is proud to offer a selection of wines that

will delight the palate. At WaterColor Inn & Resort,

we serve up a delicious experience beginning with a

tasty Gulf front view, the only thing you'll hunger for

is ... seconds.

The WaterColor Inn & Resort is awash in flavor with dining outlets like our award winning signature restaurant Fish Out of Water, a fine dining restaurant in Northwest Florida.

It sets a glamorous scene overlooking the emerald waters of the Gulf of Mexico, with virtuoso cuisine and a distinctive wine list to match. The freshest local fish and meats, combined with an eclectic approach to traditional ways of preparing and serving food, translates into dishes unlike anything else offered in this area.

A **private dining room is available**, lined with bottles from the restaurant's collection of wines.

Fish Out of Water is now offering a Breakfast Buffet. Enjoy breakfast while overlooking the Gulf. You'll appreciate the casual atmosphere and great breakfast favorites. Sit on our Gulf-front deck and soak in the morning sun.

Breakfast Buffet Hours 8:00 am – 11:00 am Daily No reservations required. Casual attire. Menu items available.

Come to Fish Out of Water for special drinks and delicacies.

The lounge area will offer featured cocktails, wines, and an assortment of local seafood. Experience the casually chic atmosphere of the lounge, while enjoying the night with friends and family.

Location & Hours of Operation

Menus

Reservations



Fish Out of Water is located beachside at the WaterColor Inn, between Seaside and Grayton Beach State Park on scenic 30A

Using the freshest possible ingredients from local farmers and fishermen, our menus are bursting with flavorful selections that celebrate the season's bounty.

Breakfast Hours:

8:00 am - 11:00 am Daily Menu available for select breakfast entrees

Tuesday - Thursday and Sunday :

Dinner Hours: 5:30 pm - 9:00 pm Happy Hour: 5:00 pm - 6:00 pm Kids Eat Free: 5:30 pm - 6:00 pm

Friday and Saturday:

Dinner Hours: 5:30 pm - 10:00 pm Happy Hour: 5:00 pm - 6:00 pm

- Happy Hour
- Cocktail
- Kids
- Dinner Dessert
- Wine List
- Breakfast

Call:850.534.5050

Email: concierge@watercolorresort.com (mailto:concierge@watercolorresort.com)

- or -

Reserve Online (http://www.opentable.com/single.aspx? rid=3078&restref=3078)

> Speniable com Diners' Choice **WINNER 2012**

Fish Out of Water Santa Rosa Beach, FL (http://www.opentable.com/rest rid=3078&restref=###&intcmp=

Kids Eat Free: 5:30 pm - 6:00 pm

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Numbers to Call

Dining Reservations: 850-534-5050 Email: concierge@watercolorresort.com (mailto:concierge@watercolorresort.com)

Concierge: 866-426-2656 Resort Direct: 850-534-5000

sounds and tastes from sunrise to sunset.

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find us on facebook (http://www.facebook.com/WaterColorInnResort)

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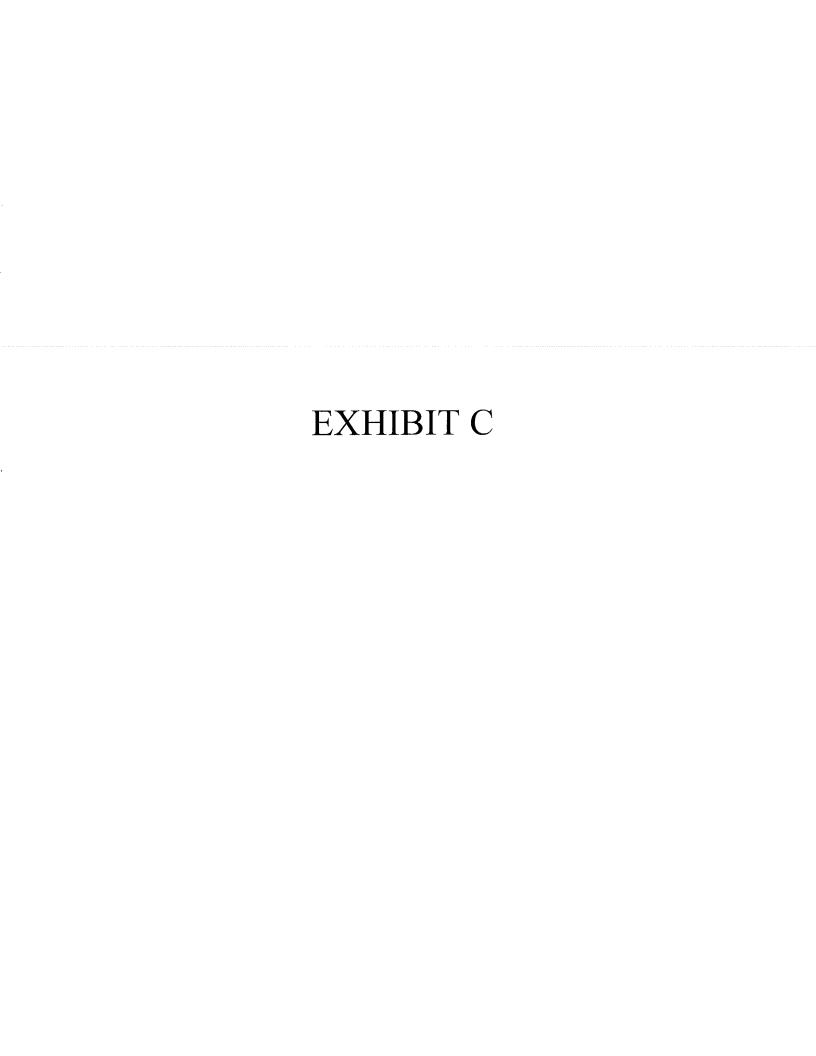
view our pictures on flickr (http://www.flickr.com/photos/watercolorresort/) (850) 534-5000

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%26 Resort&#bn)| travel professionals (http://www.noblehousehotels.com/travel-professionals.aspx)| privacy policy (http://www.noblehousehotels.com/privacy-policy.aspx)





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Santa Rosa Beach
34 Goldenrod Circle
Santa Rosa Beach, FL 32459
Website
Facebook

Fish out of Water

(850) 534-5050

<u>Seafood, Breakfast/Brunch</u> \$\$\$\$ <u>Happy Hour, Romantic, Outdoor Dining, Waterfront</u> 18 critic, blogger and diner reviews

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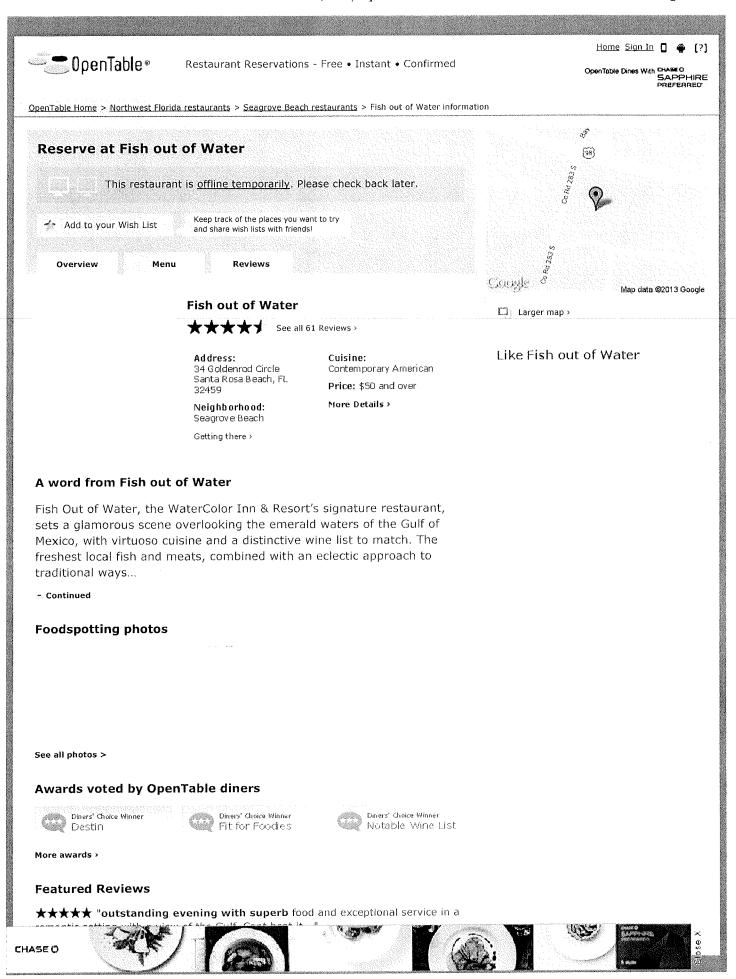
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★★★★ "Extremely fresh local ingredients (strawberries on salad!). Divine fried whole okra with siracha aoli. Scallops seared p..."

Dined on 6/24/2013

★★★★: "This is a place we go to every time we are in the area. The scenery-you can't beat a table by the water with the sun goi..."

Dined on 7/1/2013

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Fish Out Of Water, Santa Rosa Beach

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Fish Out Of Wate

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Fish Out Of Water

34 Goldenrod Circle, WaterColor Inn, Santa Rosa Beach, FL 32458 850-534-5050 Thenu Dpdate restaurant details

Ranked #22 of 74 restaurants in Santa Rosa Beach

⑤ () 91 Reviews

Certificate of Excellence 2013

Price range: \$50 - \$50 Cuisines: Seafood More restaurant details

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[7/8/2013 7:00 PM

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Beachfront Cottage #4 ②
②
②
②
②
2 Reviews Seaside, Florida Panhandle



Hibiscus Coffee and Guesthouse

(@@@)@)@) 72 Reviews Grayton Beach, Santa Rosa Beach

Seagrove Villas Read reviews



€€€○○ 45 Reviews

Seagrove Beach, Florida Panhandle

All hotels in Santa Rosa Beach (1)

7 visitor photos

91 reviews from our community

Write a Review

74% Recommend		Rating summary		
Excellent		52	Food	
Very good		16	Service	
Average		10	Value	
Poor		9	Atmosphere	
Terrible	数	4		

91 reviews sorted by Date > Rating English first



Tyler H Birmingham, AL 1 review

Heather E

"Amazing End to an Amazing Day!!!"

(a)(a)(a)(a)(a) Reviewed June 23, 2013

My girlfriend and I were down for a summer vacation in Florida. While we were there we got engaged and wanted to celebrate with dinner at Fish Out of Water. I don't think we could have chosen a better restaurant to go to. Our Server and the entire staff were tremendous and even helped us celebrate by bringing us a...

More +

Was this review helpful?

Problem with this review?

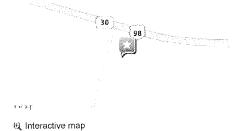
"Most Favorite"

@@@@@ Reviewed June 23, 2013

Of all the restaurants in Santa Rosa I am officially claiming Fish Out of Water my most favorite. In our party the dishes we had were Red Snapper, Chicken and Ribeye Steak. All of the dishes were amazingly delicious. The

Browse nearby

Restaurants (74) Things to Do (26)



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Christiano's

Cafe Thirty A

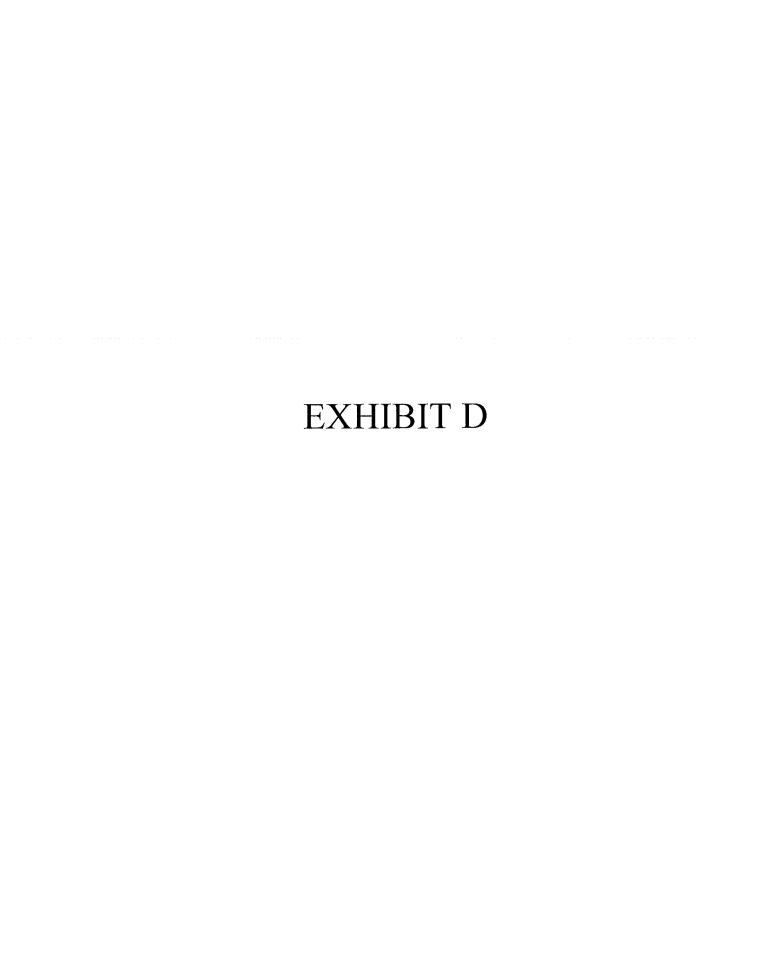
Another Broken Egg Cafe

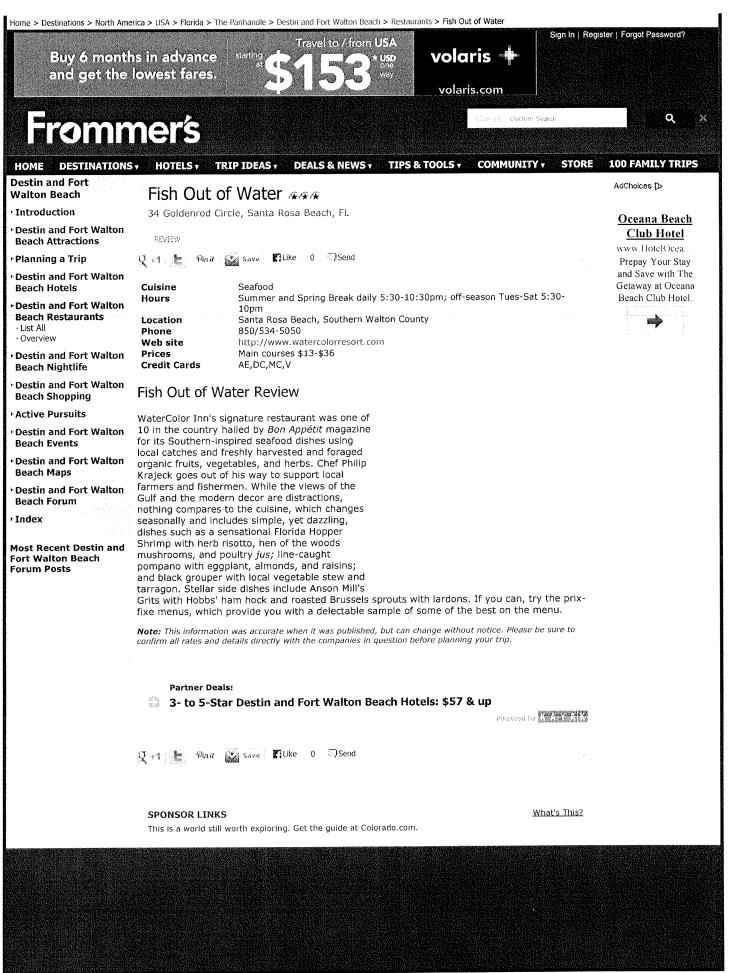
Bruno's Pizza

Chanticleer Bakery & Eatery

Chan's Wine World

The Red Bar







11

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Panhandle Restaurants

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Sights

Overview

Restaurants

Hotels

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Shopping

Travel Tips

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Fodor's Choice

Deals

Guidebooks

Fish Out of Water

\$\$\$ Cuisine Eclectic Santa Rosa Beach Grayton

Beach Fodor's Choice

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Enter yo

Fish Out of Water Review

Time your appetite to arrive at sunset and you'll witness the best of both worlds: sea oats lumbering on gold-dusted dunes outside and a stylish interior that sets new standards of sophistication for the entire Panhandle.

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Colorful, handblown-glass accent lighting that "grows" out of the hardwood floors, plush taupe banquettes, oversize handmade lamp shades, and a sleek bar area create an atmosphere worthy of the inventive cuisine. Menus are seasonal, but often range in influences from Southern (Low Country shrimp and scallops with creamy grits) to classic Continental, but all are convincingly wrought and carefully presented. The extensive wine list keeps pace with the menu offerings.

Contact Information

Restaurant Details

Address: 34 Goldenrod Circle, 2nd fl. of WaterColor InnSanta Rosa Beach, FL 32549 | Map It

Phone: 850/534-5050

No lunch.

EXHIBIT E



COAST/ACCOMMODATIONS.ASP)

DINE & DRINK (/FLORIDA-GULF-COAST/DINING.ASP)

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COASTICONTACT-FORM ASP)

WaterColor Inn & Resort Awards

HOME (/) - RESORT INFO (/FLORIDA-GULF-COAST/)

2013:

- 2013 Travel + Leisure's Top 100 "World's Best Hotels" Readers Choice #12 for the Continental U.S.
- 2013 Forbes Travel Guide WaterColor Resort listed in the "10 Best Beach Escapes"
- 2013 The Knot listed as one of the "50 Best Honeymoon Spots"
- 2013 Trip Advisor "Certificate of Excellence" WaterColor Resort above a 4.0 rating
- 2013 Trip Advisor "Certificate of Excellence" Fish Out of Water above a 4.0 rating
- 2013 WaterColor Inn listed as a "World's Best Hotel Experience" by Virtuoso
- 2013 WaterColor Inn receives a Four-Star Rating by Forbes Travel Guide
- 2013 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- 2013 Fish Out of Water awarded the coveted Four Diamond rating by AAA
- 2013 Conde' 'Nast Traveler's "Platinum Circle", WaterColor Inn & Resort
- 2013 Conde' 'Nast Traveler's "Gold List", WaterColor inn & Resort
- 2013 Conde Nast Traveler's #19 in the "Reader Spa Poll" for North America
- 2013 Destination Weddings and Honeymoons named one of the "25 Top Florida Wedding Venues"
- 2013 Camp Creek Golf Digest ranked #2 "Places you can play in Florida"
- 2013 Camp Creek Golf Digest "America's 100 Greatest Public Golf Courses"
- 2013 Camp Creek Golf Week "#11 Places you can play in Florida"
- 2013 Camp Creek Rolex "Top 1000 Golf Courses in the World"

2012

- 2012-2010 Conde Nast Traveler's "Gold List"
- 2012-2009 Conde Nast Traveler's "Reader's Choice Award"
- 2012-2007 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- 2012-2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA
- 2012 Trip Advisor "Certificate of Excellence" above a 4.0 rating
- 2012 Fish Out of Water "Golden Spoon Award" Florida Trend Magazine

WaterColor Inn & Resort is a special place, located in Santa Rosa Beach, Florida.

READ MORE

AWARDS

VIEW DETAILS

- 2012-2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA
- 2012 Fish Out of Water "Golden Spoon Award" Florida Trend Magazine
- 2009 2005 Wine Spectator's "Best Award of Excellence" Fish Out of Water
- 2006 Margit's Beach TV "Top 5 Romantic Restaurants" Fish Out of Water
- 2006 & 2005 Florida Trend "Top 400 Restaurants" Fish Out of Water

Meeting Awards

- 2006 2004 MeetingsSouth voted WaterColor Inn as an 'Outstanding Meeting Facility Providing Excellence in Service
- 2006 ConventionsSouth Readers Choice Awards "Best of the Best"

Environmental Awards

- 2009 Maintained "Two Palm" designation from the Florida Green Lodging Program
- 2008 Two Palms designation from the Florida DEP's Green Lodging Program
- 2008 Preferred Hotel Group "Certificate of Excellence" for Environmental Stewardship

Golf Awards

Camp Creek

- 2012 2011 Camp Creek Golf Club- No. 48 Golf Digest "America's 100 Greatest Public Golf Courses"
- 2012 Camp Creek Top Ten on Golfweek's "State-by-State"

2011

- 2011 Conde Nast Traveler's #12 in the "Reader's Choice Award Top 150 US Resorts"
- 2011 Andrew Harper's Hideaway Report "Reader Survey Top 20 Family Resort"
- 2011 Florida Travel + Life "Resorts You Can't Resist Pick of the Northwest Ultimate Experience"
- 2011 WaterColor Inn & Resort Travel + Leisure #26 "America's Best Beach Hotels"
- 2011-2009 Travel + Leisure's Top 500 "World's Best Hotels"
- 2011-2007 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- · 2011-2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA

2010:

- 2010 WaterColor Inn & Resort Travel + Leisure's "Top 50 Resorts US/Canada"
- 2010 WaterColor Inn & Resort Travel + Leisure's "Worlds Best Family Hotels in the U.S. and Canada"
- 2010-2009 Conde Nast Traveler's "Gold List"
- 2010-2009 Conde Nast Traveler's "Reader's Choice Award"
- 2010-2009 Travel + Leisure's Top 500 "World's Best Hotels
- 2010-2007 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- 2010-2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA

2009:

- 2009 WaterColor Inn & Resort ranked 23rd in the "Top 75 Mainland U.S. Resorts" in Conde Nast Traveler's "Reader's Choice Award"
- 2009 Conde Nast Traveler's "Gold List
- · 2009 Travel + Leisure's Top 500 "World's Best Hotels
- 2009 2005 Wine Spectator's "Best Award of Excellence" Fish Out of Water
- 2009 Maintained "Two Palm" designation from the Florida Green Lodging Program
- · 2009-2007 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- 2009-2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA

2008

- 2008 Two Palms designation from the Florida DEP's Green Lodging Program
- 2008 National Geographic Traveler's "Stay List"
- 2008 Preferred Hotel Group "Certificate of Excellence" for Environmental Stewardship.
- 2008 & 2006-2004 Rated in Zagal's "Top US Hotels, Resorts & Spas" guide
- 2008 & 2007 One of "America's Top Golf Courses" by Zagat for Camp Creek
- 2008-2007 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- 2008-2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA

2007:

- 2007 WaterColor Inn & Resort ranked 37th in the "Top 50 Mainland U.S. Resorts" in Conde Nast Traveler's "Top 100 Readers' Choice Awards"
- 2007 WaterColor Inn named "Best Hotel in Florida" by readers of Travel + Leisure
- 2007 WaterColor named one of the "10 Must-Visit Hotels & Resorts" by EcityofTravel.com
- 2007 Rated "Best Family Friendly Golf Resort" by Golf for Women Magazine
- 2007 Camp Creek awarded "14th Best Golf Course in Florida" by GolfWeek
- 2007 WaterColor Inn awarded the coveted Four Diamond rating by AAA
- 2007 Fish Out of Water awarded the coveted Four Diamond rating by AAA

2006:

- 2006 ForbesTraveler.com "World's 400 Best Hotels & Resorts"
- · 2006 "Best of Northwest Florida" Florida Golf Journal
- 2006 WaterColor Inn and Resort ranked first in the Travel + Leisure Family reader survey of the 50 best family-friendly resorts in the United States and Canada
- 2007 & 2006 "World's Best" Awards" in Travel + Leisure magazine
- 2006 Grand Award Winner of Andrew Harper's Q-Club
- 2006 Condé Nast Johansens Hotels & Inns & Resorts-Nominated for Award for Excellence - Most Excellent Resort
- 2006 Zagat Survey America's "Top Golf Course" Camp Creek
- 2006 & 2005 Florida Trend "Top 400 Restaurants" Fish Out of Water
- 2006-2004 MeetingsSouth voted WaterColor Inn as an "Outstanding Meeting Facility Providing Excellence in Service"

- 2011 Camp Creek Golf Club No. 8 Golf Digest "Best in State"
- 2011 Camp Creek Golf Club No. 8 Golfweek "Best Courses You Can Play"
- 2010 Camp Creek Golf Club No. 8 GOLF "Best Public Golf Courses in Florida"
- 2008 & 2007 One of "America's Top Golf Courses" by Zagat for Camp Creek
- 2007 Camp Creek awarded "14th Best Golf Course in Florida" by GolfWeek
- 2007 Rated "Best Family Friendly Golf Resort" by Golf for Women Magazine
- 2006 Zagat Survey America's "Top Golf Course" Camp Creek
- · 2006 "Best of Northwest Florida" Florida Golf Journal

Sharks Tooth

• 2011 Shark's Tooth Golf Club - No. 19 Golf Digest "Best in State"

Special Offers

Photo Tours

Numbers to Call

Reservations: 866-426-2656

Email: reservations@watercolorresort.com (mailto:reservations@watercolorresort.com)

Concierge: 850-534-5008 Resort Direct: 850-534-5000

(/florida-gulf-coast/emerald-coast-vacation-packages.asp#bn)

(/photo-gallery.asp#bn)

See why

See why WaterColor is one of the most popular vacation destination on Florida's Gulf Coast...

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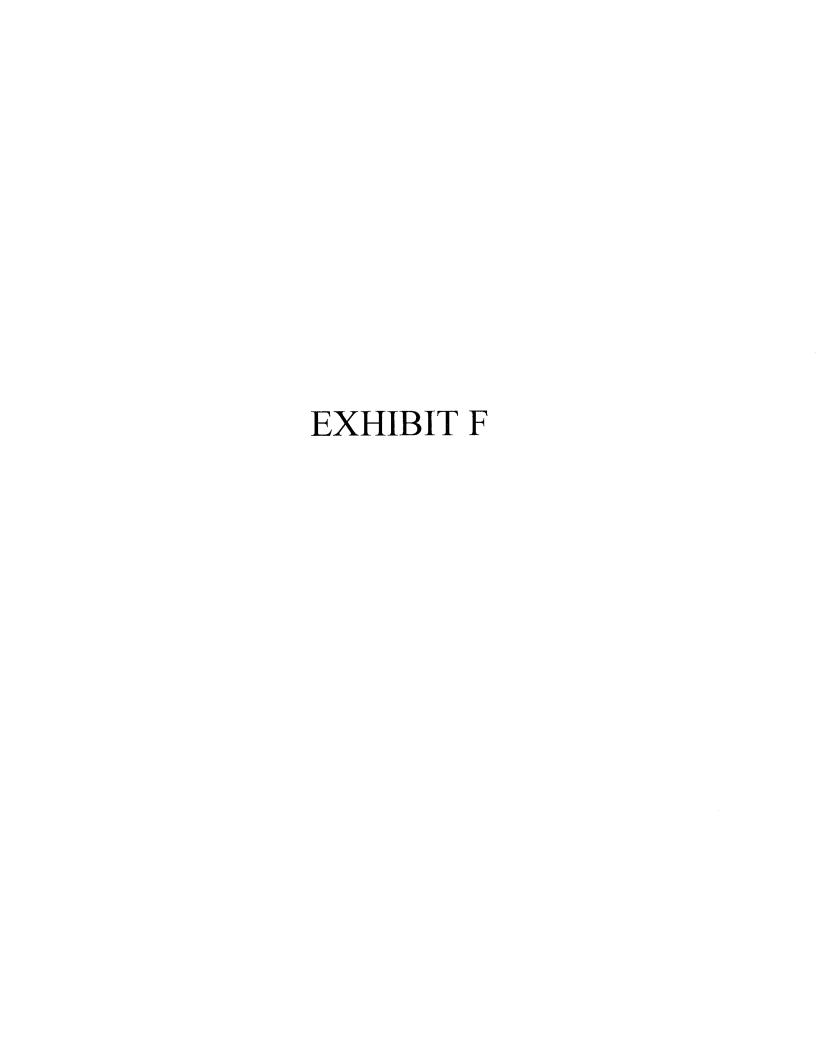
Noble house Hotels & Resorts (http://www.noblehousehotels.com/)

WATERCOLOR INN & RESORT 34 Goldenrod Circle, Santa Rosa Beach, FL 32459 850-534-5000 OR 866-426-2656

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careers (http://www.noblehousehotels.com/careers.aspx?c=qq89Vfwn&cs=9x1.9Vfw6&category=WaterColor Inn %26 Resort##bnj] travel professionals (http://www.noblehousehotels.com/fravel-professionals.aspx)] privacy policy (http://www.noblehousehotels.com/privacy-policy (aspx))





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TSDR ASSIGN Status

TTAB Status

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to TESS)

FISH OUT OF WATER

Word Mark FISH OUT OF WATER

Goods and Services IC 041. US 100 101 107. G & S: Entertainment services in the nature of television programs,

namely, continuing television programs related to food

Standard Characters

Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 85809544

Filing Date December 21, 2012

Current Basis 1B
Original Filing Basis 1B

Published for Opposition

Live/Dead Indicator

May 21, 2013

Opposition

Owner (APPLICANT) Ray Marks Co. LLC LIMITED LIABILITY COMPANY NEW YORK 900 Broadway,

Suite 1001 New York NEW YORK 10003

Attorney of Record Robin E. Silverman

Type of Mark SERVICE MARK

Parinten

LIVE

Register PRINCIPAL

TESS HOME NEW USER STRUCTURED FREE FORM BROWSE DICT SEARCH OG TOP HELP PREV LIST CURR LIST NEXT LIST

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Generated on: This page was generated by TSDR on 2013-07-09 11:59:15 EDT

Mark: FISH OUT OF WATER

FISH OUT OF WATER

US Serial Number: 85809544

Application Filing Date: Dec. 21, 2012

Register: Principal Mark Type: Service Mark

Status: A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

Status Date: Jun. 20, 2013 Publication Date: May 21, 2013

Mark Information

Mark Literal Elements: FISH OUT OF WATER

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

· Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of

Asterisks *.. * identify additional (new) wording in the goods/services.

For: Entertainment services in the nature of television programs, namely, continuing television programs related to food

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE Basis: 1(b)

Basis Information (Case Level)

Amended Use: No Currently Use: No Filed Use: No Amended ITU: No Filed ITU: Yes Currently ITU: Yes Amended 44D: No Currently 44D: No Filed 44D: No Amended 44E: No Currently 44E: No Filed 44E: No Currently 66A: No Filed 66A: No

Currently No Basis: No Filed No Basis: No

Current Owner(s) Information

Owner Name: Ray Marks Co. LLC

Owner Address: 900 Broadway, Suite 1001 New York, NEW YORK 10003

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where NEW YORK

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Robin E. Silverman

Attorney Primary Email rsilverman@golenbock.com Address:

Attorney Email No Authorized:

Correspondent

Correspondent ROBIN E. SILVERMAN

Name/Address: GOLENBOCK EISEMAN ASSOR BELL & PESKOE

437 MADISON AVE FL 35

NEW YORK, NEW YORK 10022-7020

UNITED STATES

Phone: (212) 907-7300

Correspondent e-mail: rsilverman@golenbock.com

Fax: (212) 754-0330

Correspondent e-mail No Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jun. 20, 2013	EXTENSION OF TIME TO OPPOSE RECEIVED	
May 21, 2013	PUBLISHED FOR OPPOSITION	
May 01, 2013	NOTICE OF PUBLICATION	
Apr. 15, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	67287
Apr. 13, 2013	ASSIGNED TO LIE	67287
Apr. 12, 2013	EXAMINER'S AMENDMENT MAILED	
Apr. 11, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 11, 2013	EXAMINER'S AMENDMENT ENTERED	88888
Apr. 11, 2013	EXAMINERS AMENDMENT -WRITTEN	81876
Apr. 09, 2013	ASSIGNED TO EXAMINER	81876
Jan. 09, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Dec. 25, 2012	NEW APPLICATION ENTERED IN TRAM	м ара прав А НИ МАН МЕНЕТ БИКАН И ПИВИН И ПОВИТИТЕ В ТОГО

TM Staff and Location Information

TM Staff Information

TM Attorney: CROWLEY, PAUL C

Law Office Assigned: LAW OFFICE 112

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Apr. 15, 2013

Proceedings

Summary

Number of Proceedings: 1

Type of Proceeding: Extension of Time

Proceeding Number: 85809544

Filing Date: Jun 20, 2013

Status: Not Instituted

Status Date: Jun 20, 2013

Interlocutory Attorney:

Defendant

Name: Ray Marks Co. LLC

Correspondent Address: ROBIN E. SILVERMAN

GOLENBOCK EISEMAN ASSOR BELL & PESKOE

437 MADISON AVE FL 35 NEW YORK NY , 10022-7020

Associated marks

Application Status Mark

Serial Number

Registration Number

FISH OUT OF WATER

Entry Number

Request For Extension of Time to File

85809544

Opposition

Potential Opposer(s)

Name: The St. Joe Company

Correspondent Address: Katharine F. Rowe

Smith, Gambrell & Russell, LLP 50 N. Laura StreetSuite 2600 Jacksonville FL, 32202 UNITED STATES

Correspondent e-mail: krowe@sgrlaw.com

Prosecution History

Due Date Date

INCOMING - EXT TIME TO OPPOSE FILED

History Text

Jun 20, 2013

EXTENSION OF TIME GRANTED 2

Jun 20, 2013